

**ZONING BOARD OF APPEALS**

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ZBA 2012-06
Petition of Peter Fallon
52 Livermore Road

Pursuant to due notice, the Special Permit Granting Authority held a Public Hearing on Thursday, January 5, 2012, at 7:30 p.m. in the Juliani Meeting Room, 525 Washington Street, Wellesley, on the petition of PETER FALLON requesting a Special Permit/Finding pursuant to the provisions of Section XIVE, Section XVII and Section XXV of the Zoning Bylaw that construction of 33 foot by 39.2 foot two-story addition and construction of a 13.5 foot by 17 foot two-story addition that will meet all setback requirements, on an 18,774 square foot lot in a district in which the minimum lot size is 20,000 square feet, at 52 LIVERMORE ROAD, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

Record Owner of Property: John & Elizabeth Carroll

On December 19, 2011, the Petitioner filed a request for a hearing before this Authority, and thereafter, due notice of the hearing was given by mailing and publication.

Presenting the case at the hearing were Kent Duckham, Architect and Peter Fallon, (the "Petitioner"), representing John & Elizabeth Carroll, the homeowners.

Mr. Duckham said that the lot size is nonconforming. He said that the proposal is for two additions on the existing house, one on the back and one on the side.

Mr. Duckham said that the existing house is 2,830 square feet on three floors and they are proposing to add 1,945 square feet, for a total of 4,775 square feet. The Board confirmed that those calculations are consistent with the calculations for Total Living Area plus Garage (TLAG).

The Board confirmed that the plan is to keep the existing garage. The Board confirmed that it is a pre-existing nonconforming structure.

The Board asked if the Petitioner had spoken with the abutter on the left side. Mr. Fallon said that they had not spoken with them. The Board said that the Planning Board had concerns about screening and other issues facing those abutters. Mr. Fallon said that it is a fairly open area between the properties. He said that there is a large oak tree that separates the properties.

The Board asked about landscaping plans. Mr. Fallon said that they did not currently have a landscape plan to present to the Board.

The Board said that approximately 1,100 square feet of lot coverage will be added. The Board asked about handling runoff from the additional square footage. Mr. Duckham said that the plan is to treat it the same way as it is now. He said that there will gutters and downspouts draining down to the ground.

The Board asked if anyone had looked at what the effect would be on the flow from the site. Mr. Duckham said that did not have someone look at that. The Board said that there appears to be a catch basin in the driveway. The Board said that there were no elevations submitted, so it is not possible to tell where the runoff will flow to. Mr. Duckham said that it is a fairly level site. The Board said that it may require that the runoff from the roofs not escape from the property.

The Board said that the property is located in a Water Supply Protection District. The Board said that it would need to see something that relates to how the project will meet the requirements in a Water Supply Protection District.

Mr. Fallon asked if the Board could grant the Special Permit with a condition that a leaching chamber be installed. The Board said that it typically sees the design of the leaching chamber before making its decision because it wants to understand what it is approving.

Mr. Fallon asked about submitting a Hydrology Report with information about the amount of water that will come off of the roof and will be accommodated by the leaching chamber. He said that he will have an Engineer site it on the plan and have a Soils Expert do a soil modeling.

The Board said that it would be useful to have documentation on the TLAG calculations because, while the Special Permit exempts the project from the Large House Review process, the Board would like to see where the project fits in. Mr. Fallon said that they did not include those calculations because they were so far below the threshold.

Keith Higgins, 105 Abbott Road, said that he is abutter to the property. He said that he thought that the plans look great. He said that his biggest concern is how the property will look. He asked about the plans for the trees on the property. He said that there is an oak tree that is close to the front of the property that looks dangerous. Mr. Fallon said that they would probably be taking that tree down. Mr. Higgins said that there is another oak tree that looks like it will be close to the construction. He said that there is an existing green screen that is important to him to have remain. He said that they cannot see the existing house.

The Board said that there are requirements in the Zoning Bylaw for tree protection in the setback areas. Mr. Fallon said that the oak tree at the front of the house is not in the setback area. He said that another oak tree is probably touching the setback line. Mr. Higgins said that the green screen is probably in the setback area.

Mr. Higgins said that the roof on the existing garage probably has to be replaced. Mr. Fallon said that the existing garage will be maintained and a new roof will be installed.

Cynthia Ballantyne, 101 Abbott Road, said that her property abuts the entire rear of 52 Livermore Road. She said that she is very happy with the design. She said that drainage is a huge issue back there. She said that the existing drywell in the driveway has not been sufficient. She said that she is concerned about

backup onto her property. She said that although her house is uphill from the property, there was water on her property when the drywell backed up. She said that she had to have the entire basement redone.

The Board voted unanimously to continue the petition. The Board said that it will be asking more questions about landscaping at the February hearing.

February 2, 2012

Presenting the case at the hearing were Peter Fallon, Builder and Kent Duckham, Architect.

Mr. Fallon submitted a revised plot plan showing drainage structures. He said that they calculated for the entire house rather than just the addition for a 100-year storm. He said that the soil conditions are very good there.

The Board said that on page two of the Drainage Report, it states that the drywell at the front right corner of the lot assumes all roof runoff going to the recharge area. Mr. Duckham said that there is an existing drywell in the driveway that seems to be handling the driveway.

The Board said that in the diagram of the cross-section of the drywell there is an overflow that is right up next to the dwelling. The Board asked if the overflow should be closer to the street and the storm drains rather than up close to the house because if there is a clog and it backs all the way up to the house, it could freeze in the wintertime, rupture the line and then the water would be available to the rest of the property.

Mr. Fallon said that he thought that the illustration was a boiler plate that the Environmental Engineer took from someplace else. He said that it is shown as 15 feet off of the existing structure. He said that it is shown at a far greater distance on the Site Plan. The Board said that the overflow is shown right up next to the building. Mr. Fallon said that he did not think that the scale of the cross-section was equal to the scale of the Site Plan. The Board said that it wanted to know whether the overflow should be closer to the drywell or closer to the house.

Mr. Duckham said that he thought that it had more to do with the downspouts overflow. He said that it is releasing the downspouts versus releasing the drywell. He said that it was based on past experience. He said that if there was a clog somewhere between the drywell and the house, that is where the runoff would be released.

The Board said that the overflow is for a large storm. The Board said that the calculations were done for a 100-year storm that generates the largest storage volume. The Board said that when looking at the system design, smaller more intense storms should also be looked at that create higher flows but not as large a volume. The Board said that the pipe is sized based on the small storm and the drywell design is based on the large storm. The Board said that the concern is that if there is a storm that comes fast, the piping system can handle it or if a storm is bigger than the 100-year storm, the water has a place to go. The Board said that the question was, when the water exits from the pipe, what happens to it. The Board said that, in most cases, it would be piped to a catch basin in the street.

Mr. Fallon said that there is a catch basin in the street on Livermore Road that is very close to where the leaching pit is. He said that the Engineer calculated for 7 inches in 24 hours, which is a substantial storm.

The Board said that the overflow should come off of the drywell and go to some place where the water can be accepted.

The Board asked about TLAG calculations. Mr. Fallon submitted a copy of TLAG calculations. The Board confirmed that the TLAG calculation was 5,787.2 square feet.

There was no one present at the Public Hearing who wished to speak to the petition.

Statement of Facts

The subject property is located at 52 Livermore Road, on an 18,774 square foot lot in a Water Supply Protection District in which the minimum lot size is 20,000 square feet.

The Petitioner is requesting a Special Permit/Finding that construction of 33 foot by 39.2 foot two-story addition and construction of a 13.5 foot by 17 foot two-story addition that will meet all setback requirements, on an 18,774 square foot lot in a district in which the minimum lot size is 20,000 square feet, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

A Plot Plan dated 12/13/11, revised 2/2/12, stamped by Joseph R. Sullivan, Professional Land Surveyor, Existing and Proposed Floor Plans and Elevation Drawings, dated 12/14/11, prepared by Duckham Architecture & Interiors, Soil Evaluation Report and Roof Runoff Recharge Design, dated 1/18/12, prepared by Carr Research Laboratory, Inc., and photographs were submitted.

On January 30, 2012, the Planning Board reviewed the petition and recommended that the Special Permit be granted with conditions.

Decision

This Authority has made a careful study of the materials submitted and the information presented at the hearing. The subject structure does not conform to the current Zoning Bylaw, as noted in the foregoing Statement of Facts.

It is the finding of this Authority that construction of 33 foot by 39.2 foot two-story addition and construction of a 13.5 foot by 17 foot two-story addition that will meet all setback requirements, on an 18,774 square foot lot in a district in which the minimum lot size is 20,000 square feet, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure, as it shall neither increase an existing nonconformity nor create a new nonconformity.

Therefore, a Special Permit is granted, as voted unanimously by this Authority at the Public Hearing, for construction of 33 foot by 39.2 foot two-story addition and construction of a 13.5 foot by 17 foot two-story addition that will meet all setback requirements, on an 18,774 square foot lot in a district in which the minimum lot size is 20,000, in accordance with the submitted plot plan and construction drawings and with the understanding that:

- The overflow from the stormwater at the drywell will be allowed to flow into Livermore Road.

The Inspector of Buildings is hereby authorized to issue a permit for construction upon receipt and approval of a building application and detailed construction plans.

If construction has not commenced, except for good cause, this Special Permit shall expire two years after the date time stamped on this decision.

APPEALS FROM THIS DECISION,
IF ANY, SHALL BE MADE PURSUANT
TO GENERAL LAWS, CHAPTER 40A,
SECTION 17, AND SHALL BE FILED
WITHIN 20 DAYS AFTER THE DATE
OF FILING OF THIS DECISION IN THE
OFFICE OF THE TOWN CLERK.

J. Randolph Becker, Acting Chairman

Robert W. Levy

David G. Sheffield

cc: Planning Board
Inspector of Buildings
lrm